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EXAMINER

JEANTY, ROMAIN

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DEJAN S. MILOJICIC, BRIAN COX, TIMOTHY F. FORELL,
ALAN G. NEMETH, and PETER PIET

Appeal 2014-009156¹
Application 13/260,244²
Technology Center 3600

Before HUBERT C. LORIN, JAMES A. WORTH, and
TARA L. HUTCHINGS, *Administrative Patent Judges*.

HUTCHINGS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1–12. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

¹ Our decision references Appellants' Appeal Brief ("App. Br.," filed Mar. 10, 2014) and Reply Brief ("Reply Br.," filed Aug. 20, 2014), and the Subsequent Examiner's Answer ("Ans.," mailed Aug. 4, 2014) and Final Office Action ("Final Act.," mailed Oct. 10, 2013).

² Appellants identify "Hewlett-Packard Development Company, LP" as the real party in interest. App. Br. 2.

CLAIMED INVENTION

Appellants' claimed invention relates to "supporting a computer-based product[s]." Spec. ¶ 1.

Claims 1 and 7 are the independent claims on appeal. Claim 1, reproduced below, is illustrative of the subject matter on appeal:

1. A method comprising:
processing data indicative of a cost model on a processor-based machine to predict a total cost for supporting a computer-based product system, the cost model predicting preventive, reactive and deferred components of the total cost; and
determining features of the support and computer-based product system based at least in part on the cost model.

REJECTIONS

Claims 1, 2, 4–7, and 11 are rejected under 35 U.S.C. § 102(b) as anticipated by Y. Asiedu and P. Gu, *Product Life Cycle Cost Analysis: State of the Art Review*, INT. J. PROD. RES., Vol. 36, No. 4, 883–908 (1998) (hereinafter, "Asiedu").³

Claims 3, 8, 9, and 12 are rejected under 35 U.S.C. § 103(a) as unpatentable over Asiedu and Official Notice.

Claims 10 is rejected under 35 U.S.C. § 103(a) as unpatentable over Asiedu and Wlodzimierz Funika and Piotr Pegiel, *A Role-Based Approach to Self-Healing in Autonomous Monitoring Systems*, PPAM 2009, Part II, LNCS 6068, pp.125–134, (2010) (hereinafter "Funika").

³ We treat the Examiner's omission of claim 2 from the list of claims subject to rejection as inadvertent error, given its treatment at page 3 of the Final Office Action.

ANALYSIS

Anticipation

Independent Claims 1 and 7, and Dependent Claims 2, 4–6, and 11

We are persuaded by Appellants’ argument that the Examiner erred in rejecting independent claims 1 and 7 under 35 U.S.C. § 102(b) because Asiedu does not disclose a “cost model predicting preventive, reactive and deferred components of the total cost [for supporting a computer-based product system],” as recited in claim 1 and similarly recited in claim 7. App. Br. 10–11; *see also* Reply Br. 2–3. The Examiner relies on pages 888, 891, and 897 of Asiedu as disclosing the claimed cost model. Final Act. 2, 3; Ans. 3, 7.

Asiedu describes a Life Cycle Cost (“LCC”) analysis that provides a framework for specifying the estimated total incremental cost of developing, producing, using, and retiring a particular item. Asiedu 883. Operating and support costs are the most difficult portion of the LLC to predict, and include the time required to repair defective components and the time to perform preventive maintenance. *Id.* at 888; *see also id.* at 897 (describing LLC models as “essentially predictive in nature”). Providing LCC analysis early in the design process for consideration allows the total life cycle cost of a product to be reduced. *Id.* at 890.

Appellants’ Specification describes that

incident service may be reactive, which means service occurs to repair or replace the defective component shortly after the occurrence of the incident; preventive, which means the service predates the incident; or deferred to a later time.

Spec. ¶ 41. The Examiner takes the position that Asiedu “teaches an LLC model which is predictive for doing cost analysis and a cost models analysis

for [] supporting the product system.” Final Act. 2 (citing Asiedu 897); *see also* Ans. 7 (citing Asiedu 888, 897). We agree with the Examiner that Asiedu describes an LLC model that predicts maintenance costs or preventive costs at page 888. However, the Examiner does not identify, and we do not find, where Asiedu describes that the LLC model predicts “preventive, reactive and deferred components of the total cost,” as recited in claim 1, and similarly recited in claim 7.

Accordingly, we do not sustain the Examiner’s rejection under 35 U.S.C. § 102(b) of claims 1 and 7, and dependent claims 2, 4–6, and 11.

Obviousness

Dependent Claims 3, 8, 9, 10, and 12

Claims 3, 8, 9, 10, and 12 depend from independent claims 1 and 7. The Examiner’s rejection of these dependent claims does not cure the deficiency in the Examiner’s rejection of independent claim 1. Therefore, we do not sustain the Examiner’s rejection of dependent claims 3, 8, 9, 10, and 12 under 35 U.S.C. § 103(a) for the same reasons set forth above with respect to the independent claims.

DECISION

The Examiner’s rejection of claims 1, 2, 4–7, and 11 under 35 U.S.C. § 102(b) is reversed.

The Examiner’s rejections of claims 3, 8, 9, 10, and 12 under 35 U.S.C. § 103(a) are reversed.

REVERSED